

Senate defeats bid to void mercury law Some lawmakers say EPA's approach on toxin slow, weak

By Jim Abrams, Associated Press | September 14, 2005

WASHINGTON -- The Senate yesterday narrowly turned back a challenge to the Bush administration's strategy on mercury pollution, leaving intact federal rules that give power plants flexibility in how they reduce emissions of the toxin.

With a 51-to-47 vote, the Senate defeated a resolution to void Environmental Protection Agency rules finalized in March. The Democrats and nine Republicans who supported the repeal contended that the EPA approach was slow and weak in dealing with a pollutant that can cause neurological damage to newborn and young children.

The White House said that its market-based approach to curtailing mercury pollution is effective and founded on sound science, and warned that the president would veto any legislation that overturned the EPA rules.

"In reality this is a political exercise in futility," said Senator James Inhofe, an Oklahoma Republican who is chairman of the Environment and Public Works Committee. "Who in this chamber would truly believe that the president would sign legislation to repeal his own administration's rule?"

The debate highlighted two very different approaches to environmental protection. The administration rules, backed by the utility industry, would set a nationwide cap on mercury emissions and put a ceiling on allowable pollution for each state. But individual plants, through a cap-and-trade system, can avoid cleanups by buying pollution credits from plants that are under allowable levels.

The utility industry says this method was successful in reducing acid rain in the 1990s.

But opponents say the rules are weak and would prolong a health risk that leaves newborns vulnerable to birth defects and mental retardation.

The EPA rules violate the Clean Air Act, said Senator James Jeffords, an independent from Vermont. "The rule is plainly illegal. It is unwise, and it is definitely unhealthy for Americans living downwind of coal-fired power plants, especially mothers and their soon-to-be-born children."

Mercury pollutants work their way up the food chain after being absorbed by fish.

Senator Olympia J. Snowe, a Republican from Maine -- where some of the lakes, rivers, and streams are polluted with mercury -- voted for the resolution.

"I am deeply disappointed by the Senate's failure to send the Environmental Protection Agency back to the drawing board to come up with a rule that actually protects our children and our environment from mercury pollution -- but the close vote does indicate that support is growing for an honest and effective approach to cutting mercury emissions," Snowe said.

"I and my Senate colleagues, especially those from New England states disproportionately affected by mercury pollution, will continue to press the Bush administration and the EPA to strengthen protections against this dangerous pollutant."

The sponsors of the resolution, Senators Patrick Leahy, Democrat of Vermont, and Susan M. Collins, Republican of Maine, turned to a little-used 1996 law that allows Congress to challenge agency rules with a guaranteed floor vote. The law has been successfully invoked only once, when Congress in 2001 repealed Clinton administration regulations on workplace ergonomics.

By repealing the EPA rules, the Senate would compel the agency to rewrite them. The revisions would be in line with Clean Air Act standards requiring the use of the best available technology to reduce mercury emissions.

Leahy said the Clean Air Act would start reductions in 2008. They would achieve up to 90 percent reductions far sooner than the EPA rules, which, according to Leahy, don't begin to cut emissions until 2018 and will not reach the goal of 70 percent reductions until 2030.

But supporters of the EPA rules said repealing the administration approach could have a devastating impact on the economy, forcing power plants to abandon coal for natural gas and driving up natural gas prices. They contended that it would cost \$358 billion to achieve the 90 percent reduction in three years, as opposed to a cost of \$2 billion under the administration plan. ■